

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In the Matter of:

In Bankruptcy

**Donald G. Roe and
Anna Marie Roe,**

Case No. 14-51366-wsd
Chapter 7
Hon. Walter Shapero

Debtor(s).

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**TRUSTEE'S APPLICATION FOR ORDER
AUTHORIZING EMPLOYMENT OF SPECIAL COUNSEL**

Timothy J. Miller, Trustee, the duly appointed trustee in this matter, states for his application for order authorizing employment of special counsel as follows:

1. The Trustee has determined that it is necessary to employ special counsel in this matter. The Trustee has consulted with Jason J. Thompson, Esq. of Sommers Schwartz, P.C., One Towne Square, Suite 1700, Southfield, MI 48076 for the purpose of employment as special counsel for the following reasons:

- to represent the Trustee and the bankruptcy estate in pursuit of a product liability and medical claim against Boston Scientific Corp.

2. In accordance with 11 U.S.C. §327, neither Jason J. Thompson or any other member of Sommers Schwartz, P.C., holds nor represents any interest adverse to the estate and are disinterested persons within the meaning of the Bankruptcy Code.

3. The reason for selecting Jason J. Thompson and Sommers Schwartz, P.C. (collectively "Special Counsel") is that Special Counsel specializes in medical claims of type and at issue in this matter Special Counsel is authorized to practice in all courts of this state and jurisdiction and is qualified to handle matters likely to arise in the case. Furthermore, Jason J. Thompson initiated the underlying lawsuit and is familiar with the factual and legal issues specifically related to this particular claim.

4. The arrangement for compensation is that fees will be based upon a one-third contingency fee after costs.

5. To the best of the Trustee's knowledge and to the best of Jason J. Thompson's knowledge, neither he nor the employees of Sommers Schwartz, P.C. have any connection with the Debtors, creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, nor any person employed in the office of the United States Trustee.

WHEREFORE the trustee prays for entry of an order authorizing the employment of Jason J. Thompson and Sommers Schwartz, P.C., under the above terms.

Dated: November 10, 2014

/s/Anthony J. Miller
Anthony J. Miller (P71505)
Schneider Miller, PC
Attorneys for Trustee Timothy J. Miller
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**AFFIDAVIT IN SUPPORT OF TRUSTEE'S APPLICATION
FOR ORDER AUTHORIZING EMPLOYMENT OF SPECIAL COUNSEL**

Jason J. Thompson, Esq., a resident of Oakland County in the State of Michigan, being first duly sworn deposes and says as follows:

1. I and the other professional employees Sommers Schwartz, P.C. are disinterested persons as defined by 11 U.S.C. §101(14) in the above captioned matter.

The term "disinterested person" means a person that:

- a. is not a creditor, an equity security holder, or an insider;
- b. is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the Debtor; and
- c. does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct relationship to, connection with, or interest in, the Debtor, or for any other reason.

2. Neither I nor any member of my firm hold nor represent an interest adverse to the estate.

3. Other than previously stated, neither I nor any member of my firm have any connection with the Debtors, creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee.

4. I understand and agree that:

- a. I and my Firm are obligated to keep the Trustee fully informed as to all aspects of this matter, as the Bankruptcy Estate is my client;
- b. All proceeds of any settlement or recovery must be paid to the Trustee in the first instance, and none may be disbursed without approval in writing of the Trustee or an Order of the Bankruptcy Court;
- c. If this application for appointment is approved, any fees or reimbursement of costs from the proceeds of any recoveries will be paid by the Trustee only after approval by the Bankruptcy Court;
- d. No settlements may be entered into or become binding without the approval of the Bankruptcy Court and the Trustee, after notice to the Trustee, creditors and parties in interest;
- e. All issues as to attorneys fees, debtor's exemptions, the distribution of any recovery between the Debtors and the Trustee or creditors, or any other issue which may come to be in dispute between the Debtors and the Trustee or creditors are subject to jurisdiction of the bankruptcy court. Neither I nor any other attorney or associate will undertake to advise or represent the Debtors as to any such matters or issues. Instead, the Firm will undertake to obtain the best possible result on the claim, and will leave to others any advice or representation as to such issues;
- f. The Firm is not authorized to grant any "physician's lien" upon, offer to protect payment of any claim for medical or other services out of, or otherwise pledge or encumber in any way any part of any recovery without separate Order of this Court, which may or may not be granted; and
- g. Authorization to hire experts. As part of this representation, I may need to hire experts to advise and assist in the conduct of this litigation, specifically medical experts, liability or forensic experts, vocational or economic experts, or other experts on issues of liability or damages. In this regard, I agree that I or my firm will pay or advance any fees or cost retainers required by such experts with the understanding that such payment or advance will be included as a cost in any subsequent fee application I or my Firm will make to this Court and before entering into any such retention or paying any

initial fees or costs, I will consult with the Trustee, provide the Trustee any information requested including estimates of total costs and fees, provide a copy of any fee agreements, and obtain the Trustee's advance written approval to the proposed terms of retention. I will see that copies of any bills submitted by such expert are submitted to the Trustee when I receive them and a reasonable time before I or my Firm pays them and are approved in advance, by the Trustee, in writing. Such fees or expenses of such experts are subject to reimbursement only by the bankruptcy estate, upon approval of this Court, to be paid as an administrative expense in this bankruptcy case pursuant to 11 U.S.C. §726, out of proceeds of any settlement or recovery in the litigation.

SOMMERS SCHWARTZ, P.C.

Dated: November 10, 2014

/s/Jason J. Thompson
By: Jason J. Thompson (P47184)
One Towne Square, Suite 1700
Southfield, MI 48076
(248) 355-0300
jthompson@sommerspc.com

Subscribed and sworn to before me
This 10th day of November, 2014.
/s/Holly McIntyre
Holly McIntyre, Notary Public
Oakland County, State of Michigan
Acting in Oakland County, State of Michigan
My Commission Expires: 5/6/2020

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**ORDER AUTHORIZING
TRUSTEE TO EMPLOY SPECIAL COUNSEL**

The Trustee, Timothy J. Miller having filed an application for order authorizing employment of special counsel, and it appearing that the assistance of legal counsel is necessary and that no adverse interest is present, and the Court being otherwise duly advised,

IT IS HEREBY ORDERED that the trustee is authorized to employ Jason J. Thompson of Sommers Schwartz, P.C., as special counsel. Fees and expenses are subject to Court approval.